

## Comments to the NC Environmental Management Commission from the Chapel Hill Town Council on the proposed Jordan Lake Nutrient Management rules

Adopted September 10, 2007

We thank the Environmental Management Commission for the opportunity to comment on this very important regulatory proposal, and in particular for extension of the comment period as Town Council members requested in public hearing.

In recent years, the Chapel Hill Town Council has made one of its highest priorities the protection of water resources in our jurisdiction.

We are all aware that every water body in Chapel Hill's jurisdiction drains to the Jordan Lake Reservoir, a significant regional water supply source and popular recreation destination for over 1,000,000 visitors each year.

We are aware the Jordan Lake Reservoir is on the EPA 303(d) list of impaired waters due to excessive nutrients from wastewater effluents and non-point source pollution. And we are well aware that several named streams in Chapel Hill are on the same list, some for similar causes.

We know that the State of North Carolina first directed local governments to reduce nitrogen levels from wastewater treatment plant effluent into the Jordan Lake Reservoir in 1997 under the "Clean Water Responsibility Act"; and we understand that those nitrogen levels have not been reduced.

Almost alone among affected governments, we are not taking a negative position on the proposed rules. This would be contrary to the direction of this Council and this government over the past several years.

### **Our most significant actions to protect water resources have included:**

Active Town participation -- by staff and, at times, two Council Members -- in the Morgan and Little Creeks Local Watershed Planning Initiative. These are major tributaries to the Upper Arm of Jordan Lake. This was a project of the NC Wetlands Restoration Program in cooperation with the Cape Fear River Assembly. NCDWQ carried out the Little Creek Biological Impairment Study as part of this project. This report prioritized stream restoration sites and significant riparian land purchases-- making Chapel Hill far better informed about nutrient-related restoration opportunities than almost anywhere else in the State.

Creation of a Stormwater Utility -- before full implementation of Phase II programming -- and immediate commencement of a comprehensive Stormwater Master Plan, being produced by consultants, several Town staff, and a highly-qualified Utility Advisory Board.

Above all, an in-depth revision of our development regulations to produce the Land Use Management Ordinance (LUMO), with profoundly upgraded stream protection provisions.

**We ask for clarification that we can continue to use all of the strongly protective ordinance provisions and procedures which we have put into place over the past several years.**

The Town of Chapel Hill has, in its Land Use Management Ordinance, stream buffer protection provisions – for areas included in our Resource Conservation Districts (RCD). Most notable is the requirement for 150-foot vegetated buffers on all perennial streams. Our RCD requirements are based on stream classification procedures which we believe are more stringent than the State's: RCD determinations are performed by Town staff (all State-certified); all parts of the stream are subject to ordinance; USGS or Soil Survey maps are not used to determine applicability of the Town's stream buffer protection provisions.

We expect that you will receive a comprehensive list of such provisions, in which adopting the Jordan rules could give water bodies less protection than Chapel Hill now provides, from Town staff.

These ordinances and their accompanying procedures were enacted after many hours of public hearings, over a period of years, at both the Town Council and advisory board levels. Because of Chapel Hill's long tradition of wanting full public participation in ordinance changes, we expect a lengthy process will be needed to make the numerous changes which appear to be required by the proposed rules.

We ask that DWQ staff, in evaluating what to bring to the EMC, include advice on how to allow local governments whose requirements now exceed those in the rules to use their current tools to achieve the commendable goals of the Nutrient Strategy. To do so, the proposed rules will have to include a level of flexibility which they do not appear to contain as drafted.